

REMARKS

Continued examination of the present application is requested under 37 C.F.R. § 1.114. The Applicants request consideration of the present amendments and remarks as well as those previously submitted August 15, 2005 and not yet entered by the Examiner. See *Advisory Action*, Item 3.

With regard to the *Advisory Action*, the Applicants note the Examiner's comment concerning the "[a]dded limitations in claims 1, 11, 26, 38, and 57 rais[ing] new issues that would require further consideration and/or search." *Advisory Action*, Continuation Sheet. To the extent the amendment raises a new issue, the Applicants contend the present Request for Continued Examination to overcome this rejection as provided for by 37 C.F.R. § 1.114(d).

The Applicants also note the Examiner's comment in the *Advisory Action* that "Miller discloses a scheduling module configured to determine schedules for delivery of content from the plurality of servers (16, 18, 20 fig 1) to the plurality of clients (col 4, lines 46-59)." *Advisory Action*, Continuation Sheet. The Applicants respectfully note that the Examiner has taken the Applicants' previous remarks out of context as the Applicants **do not** assert that "Miller does not disclose 'a scheduling module...', page 27." *Advisory Action*, Continuation Sheet. What the Applicants **do** assert (and as reflected on page 27 of the August 15 Amendment) is that "*Miller does not disclose a scheduling module configured to determine schedules from the plurality of servers to the plurality of clients.*" *August 15 Amendment*, 27 (emphasis added). "*Miller instead discloses a scheduler 10 configured to determine schedules for the delivery of content from the content source 12, 14 to the replicated servers 16, 18, 20.*" *August 15 Amendment*, 27-28 (emphasis added).

Again, the Applicants note that the scheduler 10 "communicates with a plurality of content sources 12, 14 over a communications network 24 and schedules data transmission **from the content sources 12, 14 to one or more replicated servers 16, 18, 20.**" *Miller*, col. 4, l. 36-40 (emphasis added). Scheduler 10 is scheduling the delivery of

content from content sources to replicated servers and **not** from the replication servers 16, 18, 20 to a plurality of clients $22_1 \dots 22_n$ as is asserted by the Examiner. See *Advisory Action*, Continuation Sheet.

Reference to column 4, lines 46-59 of *Miller* does not support the argument advanced by the Examiner. While lines 56-59 does mention that “[d]ata delivered to the replicated servers 16, 18, 20, can be **retransmitted** to one or more subscribers . . . of the content sources 12, 14 over further communications networks 26, 28” there is **no suggestion** that this **retransmission** is associated with the scheduler 10. *Miller*, col. 4, l. 56-59 (emphasis added). As noted above, scheduler 10 concerns scheduling data transmissions from the **content sources** 12, 14 to the **replicated servers** 16, 18 and 20 and **not** from the replicated servers to the plurality of clients $22_1 \dots 22_n$.


CONCLUSION

The Applicants contend the art of record fails to teach each and every claimed limitation of the present application. As such, the Applicants contend the present application to be in condition for allowance and request the issuance of a notice of allowance recognizing the same. The Examiner is invited to contact the Applicants' undersigned representative with any questions concerning the present application.

Respectfully submitted,
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